

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LAMAR G. DYE and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Philadelphia, PA

*Docket No. 02-1818; Submitted on the Record;
Issued January 9, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that he sustained an injury in the performance of duty.

On February 1, 2002 appellant, then a 31-year-old computer specialist, filed a traumatic injury claim alleging that on January 22, 2002 he strained his back while loading and unloading several skids of computers.

By letter dated February 27, 2002, the Office of Workers' Compensation Programs requested that appellant submit medical and factual evidence in support of his claim. In response, appellant submitted treatment notes and medical reports from Dr. Suzanne Steele, a Board-certified family practitioner, as well as a narrative statement in which he explained that he first experienced back pain while riding the bus home after his shift on January 22, 2002, but thought it was just a minor muscle ache. Then, on January 30, 2002, while at home, he reached to retrieve an item from a shelf and felt a stabbing pain in his back, which caused him to seek medical treatment that day.

By decision dated April 9, 2002, the Office denied appellant's claim on the grounds that the medical evidence submitted was insufficient to establish fact of injury.

The Board finds that appellant has not established that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact that an injury was

¹ 5 U.S.C. §§ 8101-8193.

sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.²

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁴ must be one of reasonable medical certainty,⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁷

In the present case, the record contains a narrative treatment note from Dr. Suzanne Steele in which she stated that appellant reported that for several weeks he was removing 50-pound boxes and printers from skids located overhead, chest high and below the waist. She further noted that appellant reported that on the way home from work one day, he felt a sharp pain in his low back and left buttock when getting out of his seat on the bus. Appellant indicated that his range of motion was diminished but that he was not in constant pain and loosened up after he has been active for a while. Dr. Steele noted her findings on physical examination, diagnosed lumbosacral strain, left side and prescribed medication, and physical therapy. She simply documented the history of injury as reported by appellant and did not otherwise discuss the cause of appellant's diagnosed back strain. Dr. Steele did not address that appellant had felt a second sharp pain on January 30, 2002, while reaching for an item on a shelf at home. The

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁶ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

Board finds her report is of diminished probative value.⁸ The remainder of the medical reports of record consist of additional hospital treatment notes from Dr. Steele dated January 30, February 4 and 8, 2002, in which she neither addresses the history of appellant's diagnosed lumbosacral strains, nor its cause. Therefore, these reports are also of little probative value.⁹

While appellant submitted medical evidence establishing the presence of a lumbosacral strain, and further submitted a factual statement in which he identified the loading and unloading of numerous computers as the employment factor alleged to have caused or contributed to the occurrence of his diagnosed back strain, as he failed to submit any medical evidence which discusses how specific factors of his federal employment caused or contributed to his diagnosed back strain or provides sufficient rationale for the conclusions therein, the Office properly denied his claim.¹⁰

The decision of the Office of Workers' Compensation Programs dated April 9, 2002 is affirmed.¹¹

Dated, Washington, DC
January 9, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. *Joe L. Wilkerson*, 47 ECAB 604 (1996).

⁹ *Id.*

¹⁰ *Carolyn F. Allen*, 47 ECAB 240 (1995) (medical reports not containing rationale on causal relationship are entitled to little probative value.)

¹¹ The Board notes that the record contains several medical reports which were received after the issuance of the Office's April 9, 2002 decision. The Board cannot review this additional medical evidence, however, as the Board's review is limited to the evidence that was before the Office at the time it issued its final decision. *Charles P. Mulholland, Jr.*, 48 ECAB 604 (1997); *Robert D. Clark*, 48 ECAB 422 (1997).